

Courts Practices and Procedures Bill House File 694

Executive Summary Only

Last Action:

**House Appropriations
Committee**

April 23, 2003

An Act relating to the Judicial Branch including by establishing a judicial district and judicial election district redistricting process, making changes to the nomination, appointment, and retention of judges, expanding magistrate courts, eliminating the position of Alternate District Associate Judge, permitting district judgeships to be apportioned or transferred to another judicial district, requiring the county sheriff to serve a summons in certain delinquency proceedings, eliminating the participation of the Foster Care Review Board in voluntary foster care placements, waiving the filing fee and court costs in certain contempt actions, changing the duties of and the procedures related to the clerk of the district court, providing that interest on a judgment be calculated upon the one year treasury constant maturity plus two percent, expanding the access of the deferred judgment docket, prohibiting regional litigation centers, modifying the schedule of the probate court, providing for a fee, and providing for a study.



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LEGISLATIVE FISCAL BUREAU

NOTES ON BILLS AND AMENDMENTS (NOBA)

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EXECUTIVE SUMMARY NOTES ON BILLS AND AMENDMENTS

HOUSE FILE 694 COURTS PRACTICES AND PROCEDURES BILL

180-DAY DELAY OF THE JUDICIAL NOMINATING COMMISSION

- Sections 1, 41, 43, 44, and 51 allow a Chief Judge to delay, up to 180 days, the nomination process of a judge for appointment to the Iowa Supreme Court, Court of Appeals, or district court for budgetary reasons.

FISCAL IMPACT: The Judicial Branch would receive some salary savings from these changes, but the amount cannot be determined.

- The 180-day delays would most likely occur at the District Court Judge and District Associate Judge levels. The average number of vacancies for a District Court Judge is three and a half per year. The average number of vacancies for a District Associate Judge is one per year.
- Section 64 sunsets the following Sections of the Code of Iowa effective July 1, 2006: Sections 46.12, 602.6304(2) and (3), 602.6403, 602.7103B, and 633.20B.
- The following chart shows the number of judges in each position and salary amount for each position that could be affected by a delay.

	Number of Judges	Salary
Supreme Court Justice	7	\$ 120,100
Court of Appeals Judge	9	115,540
District Court Judge	116	109,810
District Associate Judge	54	95,700
Associate Juvenile Judge	12	95,700
Associate Probate Judge	1	95,700
Magistrate	135	28,530

JUDICIAL NOMINATING COMMISSION

- Section 2 specifies the ineligibility of a commissioner to be nominated for a judgeship during the term for which they were elected or appointed to the commission. A commissioner is not eligible to vote for a family member, current law partner, or current business partner.

RETENTION OF JUDGES

- Sections 3 and 42 expand the regular term of office of a District Associate Judge retained by judicial election from four years to six years.
- Section 65 clarifies that the regular term of office of a District Associate Judge is four years, until they stand for re-election, and then the term is extended to six years.

SUMMONS, SUBPEONAS, AND NOTICES IN JUVENILE PROCEEDINGS

- Sections 4, 5, and 27 clarify that the county sheriff must serve a summons, subpoena, or notice in a juvenile delinquency or a child in need of assistance (CINA) proceeding.

EXECUTIVE SUMMARY NOTES ON BILLS AND AMENDMENTS

HOUSE FILE 694 COURTS PRACTICES AND PROCEDURES BILL

FOSTER CARE REVIEW BOARD

- Sections 6 and 8 eliminate the participation of the Foster Care Review Board in voluntary foster care placements and delinquency cases involving foster care.

CONTEMPT OF COURT IN A NO-CONTACT ORDER VIOLATION

- Section 7 eliminates the discrepancy between securing a no-contact order and bringing a contempt action to enforce a no-contact order by requiring that in a contempt action for violation of a no-contact order, the filing fee and court costs for the victim will be waived by the court.

MEDICAL TREATMENT OF INDIGENT PERSONS AT UNIVERSITY OF IOWA HOSPITALS

- Sections 9 through 22 remove the courts from approving and overseeing medical care to indigents at county expense and make the petitioning for medical treatment of indigent persons a county matter. This brings the Code of Iowa in compliance with current practice of the counties working directly with University of Iowa Hospitals and Clinics to secure and pay for medical services for indigents.

DRIVING A MOTOR VEHICLE WITHOUT LIABILITY INSURANCE

- Sections 23 through 25 require a vehicle owner or driver to present proof of liability insurance coverage to the clerk of court before the date of the person's court appearance.

LEASED VEHICLES

- Section 26 allows a vehicle owner to have a ticket dismissed if the owner can furnish proof to the county attorney that another person had custody of the vehicle when the ticket was issued.

MODIFYING A DISSOLUTION DECREE

- Section 28 allows a clerk of court to give notice to the originating county that an initial dissolution decree has been modified in a county other than where the original decree was entered.

CLERK OF THE DISTRICT COURT

- Section 29 allows a person to serve as clerk of the district court for more than one, but no more than four, contiguous counties in the same judicial district. This Section removes the requirement to maintain a clerk of court in each county and the associated residency requirement.

ALTERNATE DISTRICT ASSOCIATE JUDGES

- Sections 30 through 32, 40, 41, and 62 eliminate alternative district associate judges.

**EXECUTIVE SUMMARY
NOTES ON BILLS AND AMENDMENTS**

**HOUSE FILE 694
COURTS PRACTICES AND PROCEDURES BILL**

SATELLITE MAGISTRATE OFFICES

- Section 33 allows satellite magistrate offices to reopen in cities other than the county seat if the following criteria are met:
 - Magistrate court was regularly scheduled in the city on or after July 1, 2001.
 - The population of the city is at least two times greater than the population of the county seat or the population of the city is at least 30,000.
 - The city requests the chief judge to schedule magistrate court.
- Requires the city requesting the magistrate court to pay for all costs associated with holding magistrate court in the city other than the county seat.

**REORGANIZATION OF JUDICIAL
DISTRICTS AND JUDICIAL
ELECTION DISTRICTS**

- Section 34 requires the Supreme Court to review the division of judicial districts and judicial election districts beginning January 1, 2012, and at least every ten years. Specifies procedures for submission and adoption of reorganization plans.

**REORGANIZATION OF JUDICIAL
ELECTION DISTRICTS AND
JUDGEShips**

- Section 35 states that if judicial election districts are reorganized, the State Court Administrator will reapportion the number of judgeships to each judicial election district according to Section 602.6201(3), Code of Iowa.

**PERSONAL IDENTIFICATION
NUMBER**

- Section 36 requires persons filing documents with a clerk of court to provide their date of birth as a means of additional personal identification. Section 602.6111, Code of Iowa, requires that the clerk of court issue a personal identification number (PIN) to each party to a lawsuit in order to facilitate the use of an automated docket. The additional information required under this Section of the Bill would help distinguish between individuals with the same name.

**PROHIBITION OF REGIONAL
LITIGATION CENTERS**

- Section 37 specifies that regional litigation centers are not to be established.

EXECUTIVE SUMMARY NOTES ON BILLS AND AMENDMENTS

HOUSE FILE 694 COURTS PRACTICES AND PROCEDURES BILL

ALLOCATION OF JUDGESHIPS

- Sections 38 and 39 specify that an incumbent district judge cannot be removed from office due to a reduction in the number of authorized positions. A judgeship may not be apportioned unless a majority of the judicial council approves the apportionment. The chief justice may authorize a voluntary permanent transfer of a district judge from one judicial election district to another upon approval by the judicial council. A voluntary transfer does not cause a vacancy of a judgeship in the judicial election district from which the district judge transferred. Section 39 also creates two new subsections under Chapter 602.6201, Code of Iowa.
- Section 63 amends Section 602.6201(12), Code of Iowa, by sunsetting the Section that provides voluntary permanent transfers of district judges effective July 1, 2008.

NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE JUDGES

- Section 40 specifies the number of district associate judges that counties may have based on the county population. District associate judges are appointed by the district judges of the judicial election district from people nominated by the county magistrate appointing commission. Specifies guidelines for filling the vacancy of a district associate judge.

CASE DOCKETING

- Section 45 extends docketing of a case from one business day to two.

COURT DEBT WRITE OFFS

- Sections 46 and 48 increase the minimum amount of judgment that may remain unpaid from \$1 to \$3.

FISCAL IMPACT: The fiscal impact of these Sections cannot be determined but is anticipated to be minimal.

SIMPLE MISDEMEANOR FILING FEES

- Section 47 establishes two levels of filing fees for simple misdemeanors: \$8 for parking and \$17 for all other simple misdemeanors.

FISCAL IMPACT: The provision is estimated to increase General Fund revenue by approximately \$500,000 annually.

SMALL CLAIMS CASE NOTICES

- Section 49 eliminates the redundant practice of sending out two types of hearing notices for a small claims case.

EXECUTIVE SUMMARY NOTES ON BILLS AND AMENDMENTS

HOUSE FILE 694 COURTS PRACTICES AND PROCEDURES BILL

SMALL CLAIMS CERTIFIED MAILINGS

- Section 50 permits a clerk of court to charge a flat fee of \$8 for postage in small claims cases when a plaintiff requests service by mail. In FY 2002, there were approximately 89,000 small claims cases. Approximately 30.0% to 50.0% are served by certified mail as opposed to personal mail service.

FISCAL IMPACT: This Section is expected to result in minimal fiscal impact based on the increase in postage rates from \$0.34 to \$0.37 that occurred two years ago. The average cost is currently \$7 per mailing, but current practice is to charge actual cost for certified mailings. Establishing a flat fee is expected to streamline this process.

PROBATE COURT INTEREST ON JUDGMENTS

- Sections 52 through 57, and 62 amend the Probate Code to increase efficiencies.
- Section 58 clarifies the appropriate interest rate by basing it on the one-year constant maturity rate published by the Federal Reserve, plus two percent. The State Court Administrator will distribute the notice of the monthly rate and any change to that rate to all the district courts. This rate is used to calculate the interest on court costs.

RECONSIDERATION OF A SENTENCE HEARING

- Sections 59 and 60 permit the clerk of court to deliver by regular mail, rather than by certified mail, the court's final order from a reconsideration of sentence hearing. The fiscal impact of this change is minimal.

DEFERRED JUDGMENT DOCKET

- Section 61 permits the Department of Corrections to have access to deferred judgment records on a searchable database. Current law permits only the courts and the county attorneys to have access to the records.

JUDICIAL DISTRICT REDISTRICTING INTERIM STUDY COMMITTEE

- Section 66 establishes an interim study committee to study the judicial district and judicial election district redistricting and the allocation of Judicial Branch resources. If the committee determines that redistricting should occur, the Committee will adopt a redistricting plan and submit the plan for consideration by the General Assembly by December 15, 2003. If the Committee determines that redistricting should not occur, the Committee will submit to the General Assembly other recommendations for achieving an optimum allocation of Judicial Branch resources by December 15, 2003. The Committee will consist of 26 members as specified in this Bill.